

THE INDIANA CIVIL RIGHTS COMMISSION
311 West Washington Street
Indianapolis, Indiana 46204

STATE OF INDIANA)
)
COUNTY OF MARION)

DIANE G. STEWARD,
Complainant,

DOCKET NO. EMrt80040428
EEOC NO. 053801446

vs.

KITCHEN MACHINERY, INC.,
Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Comes now the parties, Complainant Diane G. Steward (“Steward”) and Respondent Kitchen Machinery, Inc. (“Kitchen”), each by counsel, and file their Stipulation of Dismissal, which Stipulation is in words and figures as follows:

(H.I.)

And comes now Robert D. Lange, Hearing Officer for the Indiana Civil Rights Commission (“ICRC”), having considered the above and being duly advised in the premises, and recommends that ICRC enter the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. The parties’ Stipulation does not state the reasons therefore.
2. The signatures of counsel on the Stipulation appear to be genuine.

3. The reasons for dismissing this cause which might exist, short of fraud, duress, or lack of authority of counsel, are:
 - a. One or both parties have decided that their position should not be litigated.
 - b. Steward has chosen to pursue her claim solely under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e. In this regard, it is noted that, at one time, trial of Steward's federal action was set for October 7, 1982.
 - c. the parties have reached some compromise, to which ICRC is not a party, which compromise is not to be enforced, should such a need arise, by ICRC.
4. Both Steward and Kitchen have been diligently and continuously represented by counsel since shortly after Steward filed the original charge.
5. ICRC will almost certainly be apprised of any fraud, duress, or lack of authority through Objections to this Recommended decision. (see Conclusion of Law 3, *infra*.)
6. The Hearing Officer previously indicated that certain findings and conclusions would be restated in a recommended decision at the close of proceedings before him (see Order, October 1, 1982). That recitation is now pointless.
7. Any Conclusion of Law which should have been deemed a Findings of Fact is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Indiana Civil Rights Law does not explicitly authorize parties to stipulate to the dismissal of a case; however, the Law is to be construed broadly to effectuate its purpose, IC 22-9-1-2(e), that purpose being the promotion of equal opportunity through reasonable methods, IC 22-9-1-2(b).

2. It is reasonable that this case be dismissed in that:
 - a. Absent an interest by Steward and Kitchen in having ICRC adjudicate their dispute, ICRC has no interest in adjudicating it. [There is no evidence that the alleged wrong is widespread. If there were, any current interest of ICRC in protecting other citizens could be effectuated through a Complaint by the Director or Deputy Director. See IC 22-9-1-3(n), 910 IAC 1-1-1(N).]
 - b. The rights protected by Title VII are comparable to those guaranteed in the Indiana Civil Rights Law. *Indiana Bell Telephone Company Inc. v. Boyd* ____Ind App.____ 421 N.E.2d 660 (198), *Indiana Civil Rights Commission v. Sutherland Lumber Company* ____Ind. App ____ , 394 N.E.2d 949 (1979).
 - C. ICRC has no reason to consider the terms of any compromise to which it is not a party and which it cannot be called upon to enforce.
3. Any interested and affected person may object to a recommended order within ten (10) days or such additional time as ICRC may grant. IC 4-22-1-12, 910 IAC 1-12-1(B).
4. An Order by ICRC is final only where approved by a majority of its members. IC 4-22-1-11.
5. With the possible exception of certain orders relating to discovery, ICRC may not award attorneys' fees and costs to a prevailing party in matters relating to employment. IC 22-9-1-6(k)(1), IC 22-0-1-6(k)(3).
6. Any Finding of Fact which should have been deemed a Conclusion of Law is hereby adopted as such.

ORDER

1. Steward's complaint should be, and the same hereby is, dismissed, with prejudice.

Dated: October 6, 1982